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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,629	03/22/2004	Billy Yang	PLI - 1192	1465

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EXAMINER

BELLINGER, JASON R

ART UNIT PAPER NUMBER

3617

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/805,629

Applicant(s)

YANG ET AL.

Examiner

Jason R Bellinger

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A (1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the spoked spinner having both a non-rotating cap and a motionless cap, as set forth in claims 1, and 14-15, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

Art Unit: 3617

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 25. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities: The term "motionless" should be replaced with the term --non-rotating-- throughout the

Art Unit: 3617

specification due to the fact that the term "motionless" means that there is an absence of movement. This term does not accurately describe the nature of the cap 52 of the present invention, since the cap 52 is mounted on a freely rotatable shaft (which would allow the cap to rotate to some extent). The cap 52 is weighted in order to prevent the cap from rotating with the wheel during use. Therefore, it would be more accurate to describe the cap as being non-rotating as opposed to motionless, since a motionless cap would be a stationary fixed object.

Appropriate correction is required.

5. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Spoked Wheel Spinner with Non-rotating Cap.
See paragraph 4 above for reasons supporting this change.

Claim Objections

6. Claims 1, 5, 8, 10-12, and 14-15 are objected to because of the following informalities: It is suggested that the term "motionless" be replaced with the term --non-rotating-- in claims 1, 5, 10-12, and 14-15, for the reasons set forth in paragraph 4 above.

The phrase "speed not quite the speed" in line 2 of claim 8 should be replaced with the phrase --different speed than that-- or an equivalent for grammatical clarity to better describe the invention.

Art Unit: 3617

The term "onto" should be replaced with the term --on-- in line 9 in claim 14 for grammatical clarity.

The term "having" should be replaced with the term --has-- in lines 4 of claim 15 for grammatical clarity.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

8. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, and 14-15 are indefinite due to the fact that the phrase "an automotive wheel" in line 3 of claims 1 & 14, and line 2 of claim 15 is a double recitation. This limitation has been previously set forth in line 1 of the claim. Therefore, it is unclear whether or not the "automotive wheel set forth in line 3 of claims 1 & 14 and line 2 of claim 15 is the same as the "automotive wheel" set forth in line 1, or is an additional element of the invention. In lines 10 & 15 of claim 1, lines 7 & 10 of claim 14, and line 5 of claim 15, it is unclear which "automotive wheel" (those set forth in line 1 and line 3 of each claim) is being referred to by the phrase "the automotive wheel".

Art Unit: 3617

Claim 6 is indefinite due to the fact that it is unclear if "the vehicle wheel" set forth in line 3 of the claim is the same element as the "automotive wheel" set forth in lines 1 and 3 of claim 1, or a separate element of the invention.

Claim 8 is indefinite due to the fact that the phrase "a automotive wheel" is a triple recitation. This limitation has been previously set forth both lines 1 and 3 of claim 1. It is therefore unclear whether the "automotive wheel" set forth in claim 8 is the same element as that/those set forth in claim 1, or an additional element of the invention.

Claim 14 is further indefinite due to the fact that it is unclear which cap (the non-rotating cap, or the motionless cap) is being referred to by the phrases "said cap" and "the cap" in lines 9-10.

Claim 15 is further indefinite due to the fact that it is unclear whether or not the phrase "said wheel" in line 3 is referring to one of the "automotive wheels" referred to in line 1-2, or is an additional element of the invention. The claim is indefinite due to the fact that it is unclear which cap (the non-rotating cap, or the motionless cap) is being referred to by the phrases "said cap" and "the cap" in lines 4-5.

9. Claims 1, and 14-15 recite the limitation "a non-rotating cap" in line 1 of each claim. There is insufficient antecedent basis for this limitation in the claim. The specification states that the spoked spinner includes "a non-rotating cap" in the last line of page 4, however gives no further description of the "non-rotating cap", only discussing a "motionless cap". Therefore, it is unclear whether the "non-rotating cap"

Art Unit: 3617

and the "motionless cap" are the same element of the invention or two distinct elements of the invention.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 14-15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yuan in view of Hettinger. As best understood, Yuan shows a spinner 2 for a wheel *W* having a non-rotating cap 25. An adaptor plate 1 mounts onto a wheel *W*. A spinner bearing 24 is retained within the adaptor plate 1 (since the entire spinner assembly shown in Figure 3 is secured in the central cavity of the adaptor plate 1). A spinner shaft 23 is attached to the wheel *W* (through housing 21), and is free to rotate independently of the wheel *W* (due spinner bearing 24). A spinner 20 is attached to the shaft 23. A "motionless" cap 28 is attached to the shaft 23 (through the housing 21 and bearings 24). The non-rotating cap 25 is mounted on a cap bearing 24, and includes a counter-weight 26 so that when the wheel *W* is rotating, the non-rotating cap 25 remains in a relatively fixed position without rotating.

Yuan does not show a spinner attached to the spinner shaft. Yuan does show a spinner 27 attached to the spinner shaft 23 (through the non-rotating disk 25). This spinner 27 may include decorative indicia 271 thereon.

Art Unit: 3617

Hettinger teaches the use of a spinner having a spinner shaft 28 on which a bladed spinner 10 (the blades being indicated at 36) is mounted. Therefore from this teaching, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide blades on the spinner of Yuan as a substitution of equivalent decorative indicia, for the purpose of changing the aesthetic appearance of a vehicle wheel.

Allowable Subject Matter

12. Claims 1-13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references are considered to show spinner wheel covers, either being freely rotating (as shown by Fowlkes) or non-rotating (as shown in Williams).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason R Bellinger whose telephone number is 703-308-6298. The examiner can normally be reached on Mon - Thurs (9:00-4:30).

Art Unit: 3617

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jason R Bellinger
Examiner
Art Unit 3617

JASON R. BELLINGER
PATENT EXAMINER

jrb

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4/13/05